



**US Army Corps
of Engineers®**
Nashville District

Public Notice

Public Notice No. 05-104

Date: December 12, 2005

Application No. 200502342

Please address all comments to:
Regulatory Branch, 3701 Bell Road, Nashville, TN 37214-2660

JOINT PUBLIC NOTICE
US ARMY CORPS OF ENGINEERS
AND
TENNESSEE VALLEY AUTHORITY

SUBJECT: Proposed Commercial Development at West Prong Little Pigeon River Mile 10.1 to 10.6, Right Bank, in Pigeon Forge, Sevier County, Tennessee

TO ALL CONCERNED: The application described below has been submitted for a Department of the Army (DA) Permit under **Section 404 of the Clean Water Act (33 USC 1344)**. A Tennessee Valley Authority (TVA) permit, under Section 26a of the TVA Act (16 USC 831y-1), is also being requested. Before a permit can be issued, certification must be provided by the State of Tennessee, Division of Water Pollution Control (TWPC), pursuant to Section 401(a)(1) of the Clean Water Act (CWA), that applicable water quality standards will not be violated. The applicant has applied for the required water quality certification by separate application.

APPLICANT: Riverwalk Park, LLC
997 W. Kennedy Boulevard, Suite 25A
Orlando, Florida 32810

LOCATION: At portion of former Jake Thomas Farm adjacent to miles 10.1-10.6, right bank, West Prong Little Pigeon River, in Pigeon Forge, Sevier County, Tennessee, Lat 35° 47' 51", Long 83° 33' 37", Pigeon Forge-TN, USGS Quad Map. (See Figure 1).

BACKGROUND: The U.S. Environmental Protection Agency, Region 4, (EPA), recently reached an enforcement resolution with Riverwalk Park, LLC (Riverwalk), in accordance with Riverwalk's failure to secure a Corps of Engineers (Corps) Section 404 permit before commencing work in waters of the United States. Riverwalk will pay a penalty of \$85,000 for unauthorized impacts to 0.73 acres of waters of the United States adjacent to the West Prong Little Pigeon River. The EPA developed this enforcement action supported and assisted by the Corps' Nashville District.

DESCRIPTION: Riverwalk proposes a commercial development on a 37-acre tract at the subject location. The new development would be known as Main Street Marketplace (MSM). The proposed development is a \$75 million, 270,000 square-foot (sqft) lifestyle center with 180,000 sqft of retail space, restaurants, a 12-screen cinema, and associated infrastructure. The MSM tract is located to the south and north of Jake Thomas Road and is bordered by Teaster Lane on the north and the West Prong Little Pigeon River on the south (Figure 2). The City of Pigeon Forge as well as various business enterprises plan additional municipal and commercial development in adjacent tracts (Figure 3). The project would require mass grading of the site to develop the infrastructure and provide building pads for the commercial development. Borrow material for the proposed grading activities would be obtained from a nearby area north of the development (Figures 1, 3, & 4). The site contains two stream channels, an ephemeral stream, and 0.57 acres of jurisdictional wetlands (Figure 5).

Proposed Wetland Impacts and Mitigation. The proposed MSM development would impact approximately 0.57 acres of low-quality wetlands (Figure 5). Approximately 0.33 acres of this total were disturbed in May 2005 and resulted in the EPA enforcement action mentioned in the provided background. The wetlands are located in two general areas and approximately 40% of the wetlands are linear features on the land. Riverwalk indicates that attempts to avoid or minimize these impacts were unsuccessful. They stated that even if the wetlands could have been avoided long term development impacts would be likely and functions and values would remain low. Finally, Riverwalk states that similar commercial/retail development acreage within the city of Pigeon Forge was not currently available for the MSM development. Mitigation: Riverwalk proposes purchasing wetland credits from the Indian Creek Advanced Mitigation Site (ICAMS) in Oliver Springs, Roane County, Tennessee. The ICAMS property currently only contains 0.886 remaining credits available. Therefore, a mitigation ratio of 1.55:1 is proposed.

Proposed Stream Impacts and Mitigation. The proposed MSM development would require six stream crossings for access roads (Figure 8-1). Five of the crossings would be located on the unnamed perennial stream on Tract B and the sixth crossing would be across a wet weather conveyance (ephemeral stream) on Tract A. Stream crossings 1, 3, and 5 would involve the installation of two 36" pipes. The construction of Crossing 5 would also require the removal of 60' of existing corrugated metal pipe. The unnamed perennial stream would experience a combined total loss of 192' of streambed. Mitigation: To minimize stream impacts, crossings 2 and 4 would use CON/SPAN precast modular bridges that would span the stream and not impact the channel below. Overall, Riverwalk has been able to design the development to limit impacts to stream channels by only placing fills at road crossing sites.

Representative plans of the proposed work are attached to this notice. To arrange viewing additional plans and details, please contact J. Ruben Hernandez at (615) 369-7519.

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b)(1) of the CWA (40 CFR Part 230). A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact

Statement (EIS) pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

An EA will be prepared by this office prior to a final decision concerning issuance or denial of the requested DA Permit.

Cultural Resources. Draft Phase I archaeological surveys have been prepared for an area comprising the MSM site and for the proposed borrow area, respectively. Prehistoric sites, potentially eligible for listing in the National Register of Historic Places (NRHP), have been identified within the MSM site. These sites could be affected by the proposed work. The draft reports have been informally submitted for review to the Corps. The Corps plans to coordinate its findings and recommendations with the State Historic Preservation Officer (SHPO). This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the SHPO.

Endangered Species. Based on available information, the proposed work will not destroy or endanger any federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act. Therefore, we have reached a no effect determination, and initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

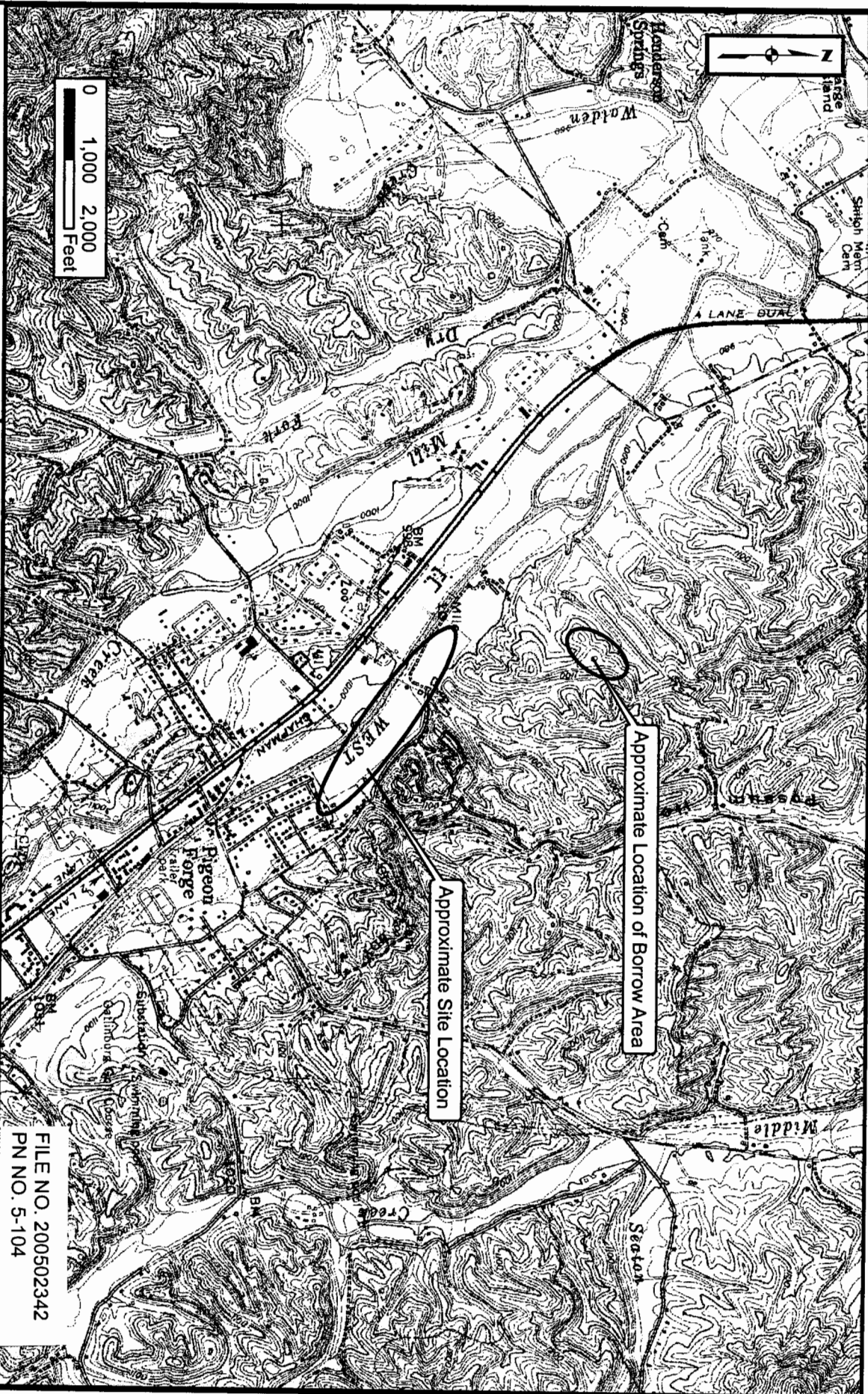
Other federal, state, and/or local approvals required for the proposed work are as follows:

a. Tennessee Valley Authority (TVA) approval under Section 26a of the TVA Act. In addition to other provisions of its approval, TVA would require the applicant to employ best management practices to control erosion and sedimentation, as necessary, to prevent adverse aquatic impacts.

b. Water quality certification from the State of Tennessee in accordance with Section 401(a)(1) of the Clean Water Act.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Written statements received in this office on or before January 11, 2006, will become a part of the record and will be considered in the determination. Any response to this notice should be directed to the Regulatory Branch, Attn: J. Ruben Hernandez, at the above address, telephone (615) 369-7519. It is not necessary to comment separately to TVA since copies of all comments will be sent to that agency and will become part of its record on the proposal. However, if comments are sent to TVA, they should be mailed to Karen Stewart, Holston-Cherokee-Douglas Watershed Team, 3726 E. Morris Boulevard, Morristown, Tennessee 37813-1270. In addition, TWPC will issue a separate public notice for the proposed action. If comments are sent to TWPC, they should be mailed to Mr. Dan Eagar, Tennessee Division of Water Pollution Control, 7th Floor, L&C Annex, 401 Church Street Nashville, Tennessee 37243-1534, telephone (615) 532-0625.



USGS Topographic
Quadrangle Reference:

Pigeon Forge, TN

SCALE: AS SHOWN

CHECKED: EP

DRAWN: MDS

DATE: 10/28/05



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SITE VICINITY MAP

Main Street Marketplace

Pigeon Forge, Tennessee

JOB NO: 1434-05-329A

1434-05-329A

FIGURE NO.:



USGS Topographic
Quadrangle Reference:
Pigeon Forge, TN

SCALE: AS SHOWN

CHECKED: EP

DRAWN: MDS

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Proposed Development

Main Street Marketplace

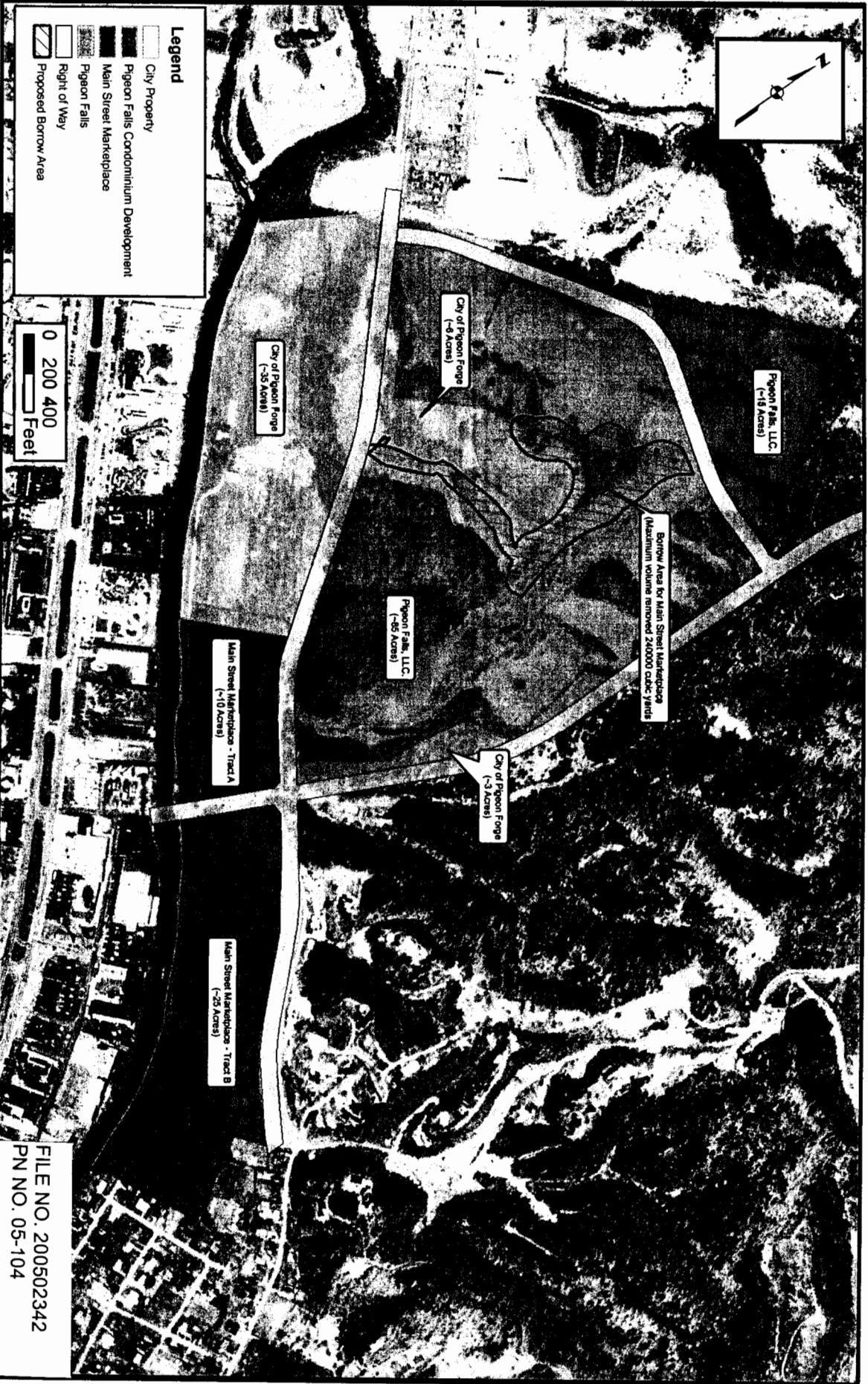
Pigeon Forge, Tennessee

JOB NO:

1434-05-329A

FIGURE NO:

2



Aerial Photograph Reference:
From USGS Seamless Data Website
(<http://seamless.usgs.gov/>)
Date Unknown

SCALE: AS SHOWN

CHECKED: EP

DRAWN: MDS

DATE: 10/28/05



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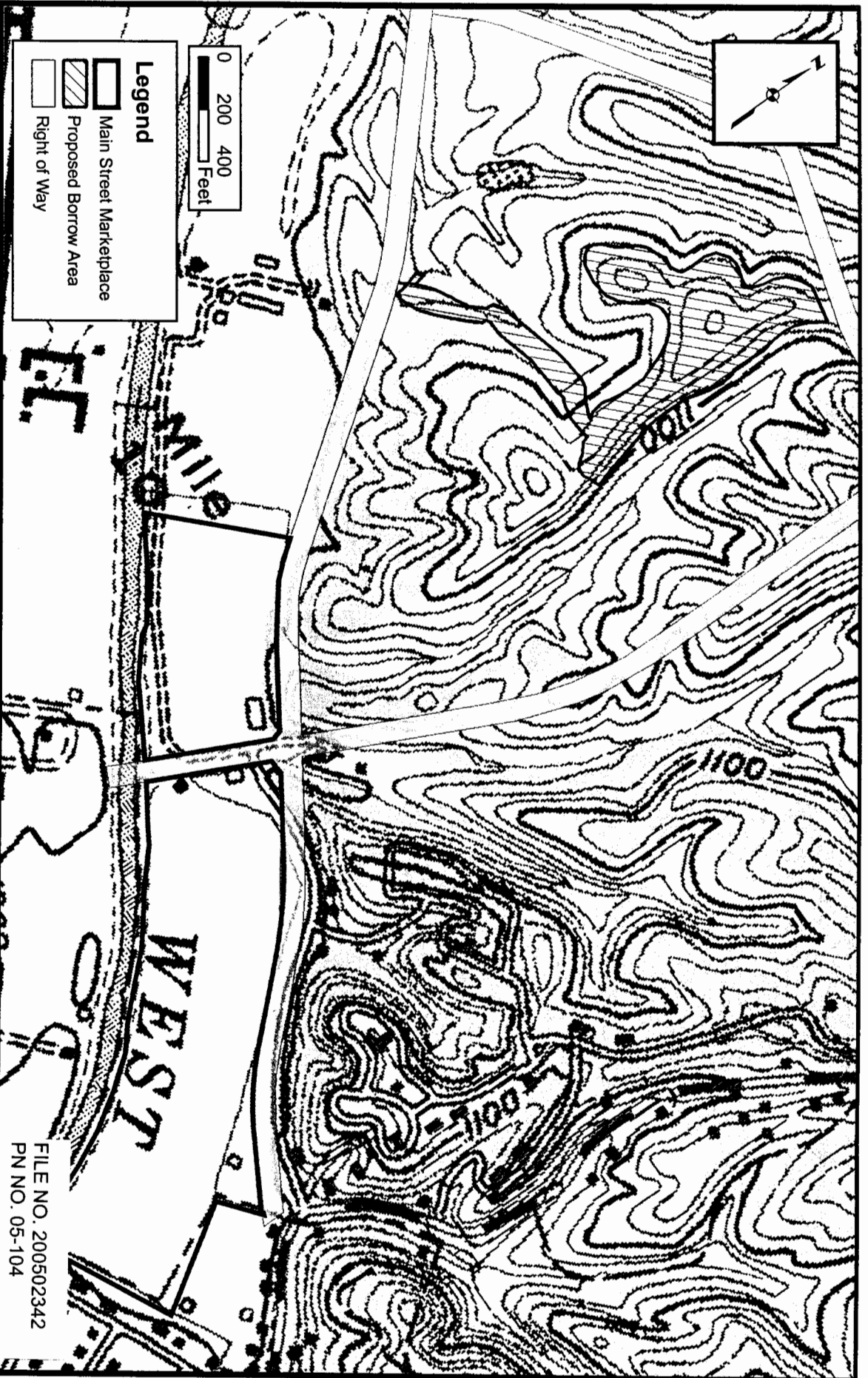
Property Ownership
Main Street Marketplace
Pigeon Forge, Tennessee

JOB NO: 1434-05-329A

FIGURE NO:

3

FILE NO. 200502342
PN NO. 05-104



Legend

- ☐ Main Street Marketplace
- ☒ Proposed Borrow Area
- ☐ Right of Way

0 200 400
Feet

USGS Topographic
Quadangle Reference:
Pigeon Forge, TN

SCALE: AS SHOWN

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Proposed Borrow Area
Main Street Marketplace
Pigeon Forge, Tennessee

JOB NO.: 1434-05-329A

FIGURE NO:

4

FILE NO. 200502342
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City Property
Not Included in this
Permit Application

0.11 Acres

0.12 Acres

Teaster Lane

Jake Thomas Road

0.08 Acres

0.22 Acres

0.04 Acres

Legend

- Streams (some ephemeral)
- Floodway
- Roads (gravel)
- Right of Way
- Identified Wetlands (SAME - May 2005)
- Disturbed Wetlands
- Undisturbed Wetlands
- High Probability Prehistoric Archaeological Areas (Duvall - June 2004)
- Filled Areas
- Property Boundary

0 100 200
Feet

Aerial Photograph Reference:

From USGS Seamless Data Website
(<http://seamless.usgs.gov/>)
Date Unknown

SCALE: AS SHOWN

CHECKED: EP

DRAWN: MDS

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Existing Conditions

Main Street Marketplace

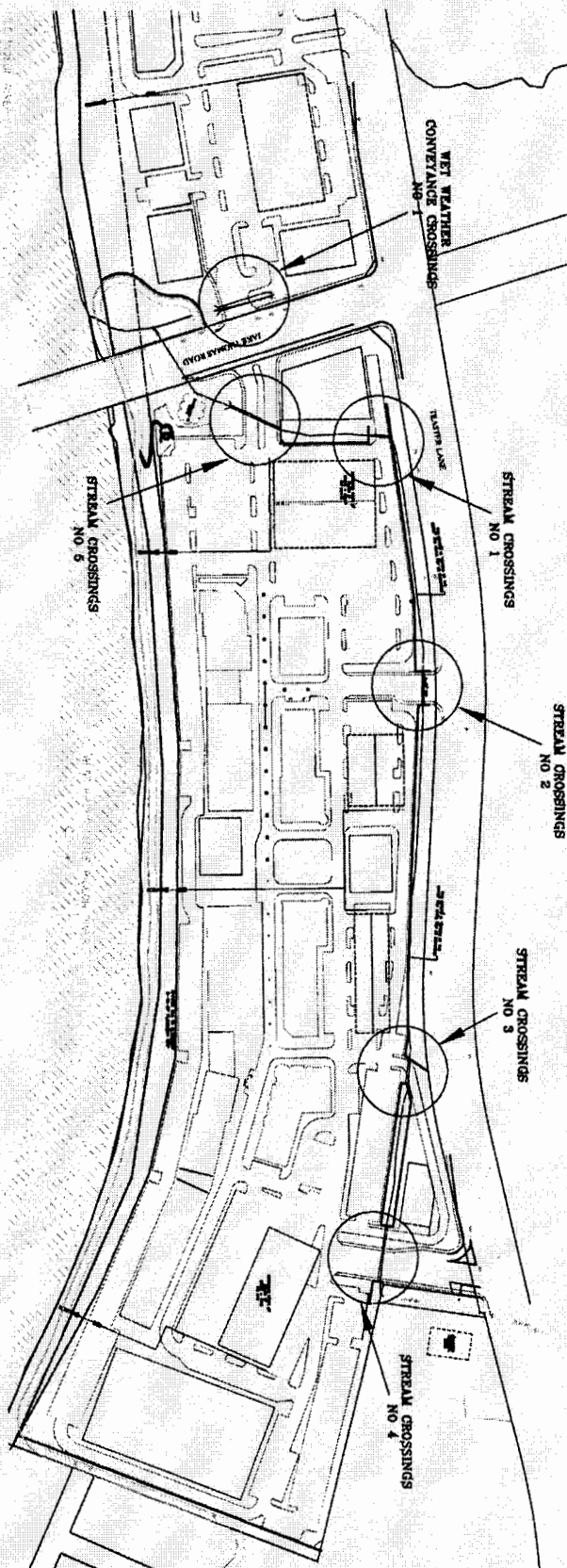
Pigeon Forge, Tennessee

JOB NO: 1434-05-329A

FILE NO. 200502342
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FIGURE NO:

5



Note:

Stream crossing details and location map completed by Norvell and Poe, Engineers LLC. Stream crossings 2 and 4 are not shown because they will be CONSPAN (trademark) structures with no impact to the stream bed or bank.

FILE NO. 200502342
PN NO. 05-104

DRAWN BY: Matthew Smith DATE: 12/07/05
CHECKED BY: FILE:

REVISIONS

| NO. | DATE | COMMENTS |
|-----|----------|--------------------------------|
| 0 | 11/01/05 | Original Issue |
| 1 | 12/07/05 | Second Issue for Public Notice |

Stream Crossing Details and Locations

Main Street Marketplace

Pigeon Forge, Tennessee



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1413 Topside Road Louisville, TN 37777
Phone: 615.970.0093 Fax: 615.970.2312

FIGURE NO:
8-1